

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CAPITAL ONE, NATIONAL ASSOCIATION,

Plaintiff,

-v-

201 W 134 ST LLC, et al.,

Defendants.
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USDC SDNY
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DATE FILED: 8/3/12

12 Civ. 5025 (JMF)

ORDER

JESSE M. FURMAN, District Judge:

On August 2, 2012, defendants 201 W 134 ST LLC and Gerald Migdol filed a motion to dismiss the complaint under Rule 12(b) of the Federal Rules of Civil Procedure. Under Rule 15(a)(1)(B), a plaintiff has twenty-one (21) days after the service of a motion under Rule 12(b) to amend the complaint once as a matter of course.

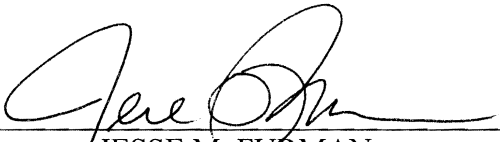
Accordingly, it is hereby ORDERED that plaintiff shall file any amended complaint by **August 24, 2012**. Plaintiff will not be given any further opportunity to amend the complaint to address issues raised by the motion to dismiss. If plaintiff does amend, by three (3) weeks after the amended complaint is filed, defendants 201 W 134 ST LLC and Gerald Migdol shall: (1) file an answer; (2) file a new motion to dismiss; or (3) submit a letter to the Court, copying plaintiff, stating that they rely on the previously filed motion to dismiss.

It is further ORDERED that if no amended complaint is filed, plaintiff shall serve any opposition to the motion to dismiss by **August 24, 2012**. Defendants' reply, if any, shall be served by **August 31, 2012**. At the time any reply is served, the moving party shall supply the Court with two (2) courtesy hard copies of all motion papers by mailing or delivering them to the United States Courthouse, 500 Pearl Street, New York, New York.

It is further ORDERED that the initial pretrial conference scheduled for September 19, 2012, is adjourned *sine die*.

SO ORDERED.

Dated: New York, New York
August 3, 2012


JESSE M. FURMAN
United States District Judge